THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO :30548 of 1998

Date: 4.8.2005

Between:

K. Venkat Ram Reddy S/o. Narsimha Reddy
R/o. Mahaboobnagar.

..... PETITIONER

AND

1 The Presiding Officer, Labour Court-III,
Hyderabad & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 30548 of 1998

ORDER:

This writ petition is filed by the Workman being aggrieved by the Award passed in I.D. No. 785 of 1993, dated 23.4.1997 on the file of the Labour Court-III, Hyderabad, in so far as imposing punishment of stoppage of three increments with cumulative effect and denying one promotion, back wages etc.,

It is the case of the petitioner that he was appointed as a Conductor in A.P.S.R.T.C., in the year 1984. In the year 1992, he was attached to A.P.S.R.T.C., Bus Depot, Gadwal, Mahabubnagar District. On 1.9.1992, when he was conducting bus on the route Ijea to Venusomapuram, the S.R. was mis-placed. Immediately, thereafter, a check was conducted by the officials of the Corporation and on the basis of the report submitted by them, a charge sheet was issued enumerating as many as seven charges. Petitioner gave a detailed explanation denying the charges and the circumstances under which the mis-conduct was alleged against him. The Corporation, without properly considering the same, appointed an Enquiry Officer. However, a farce of an enquiry was conducted in gross violation of principles of natural justice. The Enquiry Officer held the petitioner guilty of all the charges. The disciplinary authority simply accepted the report submitted by the Enquiry Officer and ultimately passed an order of removal from service on 21.4.1993. Aggrieved by

the same, petitioner filed an appeal before the Divisional Manager concerned. The same was rejected on 27.5.1993. Having no other option, the petitioner raised a dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') by filing a claim petition before the 1st respondent. It was taken up on file as I.D. No. 785 of 1993.

The Labour Court, though found the petitioner guilty of the charges, in so far as the quantum of punishment was concerned, opined that the same was disproportionate to that of the mis-conduct alleged and directed reinstatement of the petitioner with continuity of service, but without any back wages and further directed to impose punishment of withholding of three increments with cumulative effect, which is arbitrary and illegal. Hence, this writ petition.

A detailed counter affidavit has been filed by the respondent-Management denying the allegations made by the petitioner and it is asserted that the Labour Court itself has taken a lenient view of the matter and no further lenience can be shown by this Court under Article 226 of the Constitution of India for granting further relief. In fact, petitioner had no clean record of service. For having committed cash and ticket irregularities on several occasions, he was censured four times and his increments were deferred six times and he was also removed once on 1.6.1989 prior to the order of removal from service dated 21.4.1993. The respondent-management, therefore, pleaded that the writ petition is devoid of merits and is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award passed by the Labour Court and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. The mis-conduct alleged against the petitioner is very serious in its nature. Though the petitioner had collected fare @ Rs.2-25 ps., each from six individual passengers at the Boarding point, i.e., at Stage No.8, did not issue tickets to them though the bus travelled upto stage No.11, where they were found to be alighting without tickets. Further, the petitioner had closed tray numbers of Rs.2.25 ps., denomination against Stage No.11, without completing the issue of tickets, apart from committing various other irregularities. In fact, the passengers who were examined on the spot,

categorically stated that though they had tendered fare at the Boarding Point, the Conductor did not issue tickets to them. Though this statement was made in the presence of the petitioner, he did not attest the same and the Service Driver had attested the same. The petitioner has fabricated some story of ill-health that he has been suffering from loose motions etc. The Labour Court has rightly accepted the evidence of the passengers as well as the T.T.Is., and came to the conclusion that the charges framed against the petitioner were proved. However, the Labour Court found that the quantum of punishment, i.e., removal of the petitioner from service is disproportionate to that of the mis-conduct alleged. In fact, in the facts and circumstances of the case, it cannot be said that the punishment imposed was disproportionate to that of the mis-conduct alleged. However, the Labour Court while exercising its powers under Section 11A of the Act, took a lenient view and granted the relief of reinstatement with continuity of service, but without back wages and directed the management to impose the punishment of stoppage of three increments with cumulative effect. The same can neither be said to be arbitrary nor illegal. The Award passed by the Labour Court does not suffer from any infirmity warranting interference of this Court under Article 226 of the Constitution of India.

The writ petition is devoid of merits and is liable to be dismissed and is accordingly dismissed. No costs.

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C.V. RAMULU,J

DATE: 4th August, 2005

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